

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

10/10/87
41959

In the Matter Of:)

UNIFIRST CORPORATION)
15 Olympia Avenue)
P.O. Box 4017)
Woburn, MA 01888,)

RESPONDENT.)

Proceeding Under Section 106(a))
of the Comprehensive Environmental)
Response, Compensation and Liability)
Act of 1980, as amended by the Super-)
fund Amendments and Reauthorization)
Act of 1986, Pub. L. No. 99-499, 100)
Stat. 1613, (October 17, 1986).)

U.S. EPA
Docket No. 1-87-1108

ADMINISTRATIVE ORDER
BY CONSENT

I. JURISDICTION

1. This Administrative Order by Consent ("Consent Order") is entered into voluntarily by and between the United States Environmental Protection Agency ("EPA") and Unifirst Corporation ("Unifirst" or "Respondent"). The Consent Order concerns the removal of dense non-aqueous phase liquid hazardous substances at the Superfund site known as the Wells G and H Site in Woburn, Massachusetts. This Consent Order is issued pursuant to the authority vested in the President of the United States by Sections 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. § 9606(a), as amended by the Superfund Amendments

and Reauthorization Act of 1986 (SARA), Pub. L. No. 99-499, delegated to the Administrator of the United States Environmental Protection Agency on January 23, 1987 by Executive Order 12580, 52 Fed. Reg. 2923, and further delegated to the Regional Administrator, EPA Region I by EPA delegation No. 14-14-B. Moreover, Respondent agrees and submits to the jurisdiction asserted in this Order for the purpose of any subsequent proceedings for the enforcement of this Order. The State of Massachusetts has been given notice of this Order.

II. STATEMENT OF PURPOSE

2. In entering into this Consent Order, the mutual objective of EPA and Unifirst is to provide for the investigation, removal, subsequent treatment, and recycling or disposal of dense non-aqueous phase liquid ("DNAPL") found in the shallow bedrock aquifer below the Unifirst property.

III. FINDINGS OF FACT

3. Unifirst is a corporation organized and incorporated under the laws of the State of Massachusetts. Unifirst's principal place of business is at 15 Olympia Avenue in Woburn, MA.

4. Unifirst is located within the Wells G & H Superfund Site study area. Wells G & H are two municipal wells which supplied drinking water to the City of Woburn.

In May 1979 the Department of Environmental Quality Engineering (DEQE) found several volatile organic compounds, including 1,1,1-trichloroethane, tetrachloroethene, trans 1,2-dichloroethene, and trichloroethene, at concentrations ranging from 1 to 400 parts per billion (ppb) in water sampled from the wells. The DEQE then shut the wells off.

5. On December 21, 1982, Wells G & H were listed on the CERCLA National Priorities List, pursuant to Section 105(8)(B) of CERCLA, 42 U.S.C. § 9605(8)(B).

6. EPA then began a Remedial Investigation or study to determine the nature and extent of groundwater contamination at the Wells G & H Site. This study was performed for EPA by NUS Corporation. In October 1986, EPA released the report titled: Wells G & H Site Remedial Investigation Report Part I, Woburn, MA.

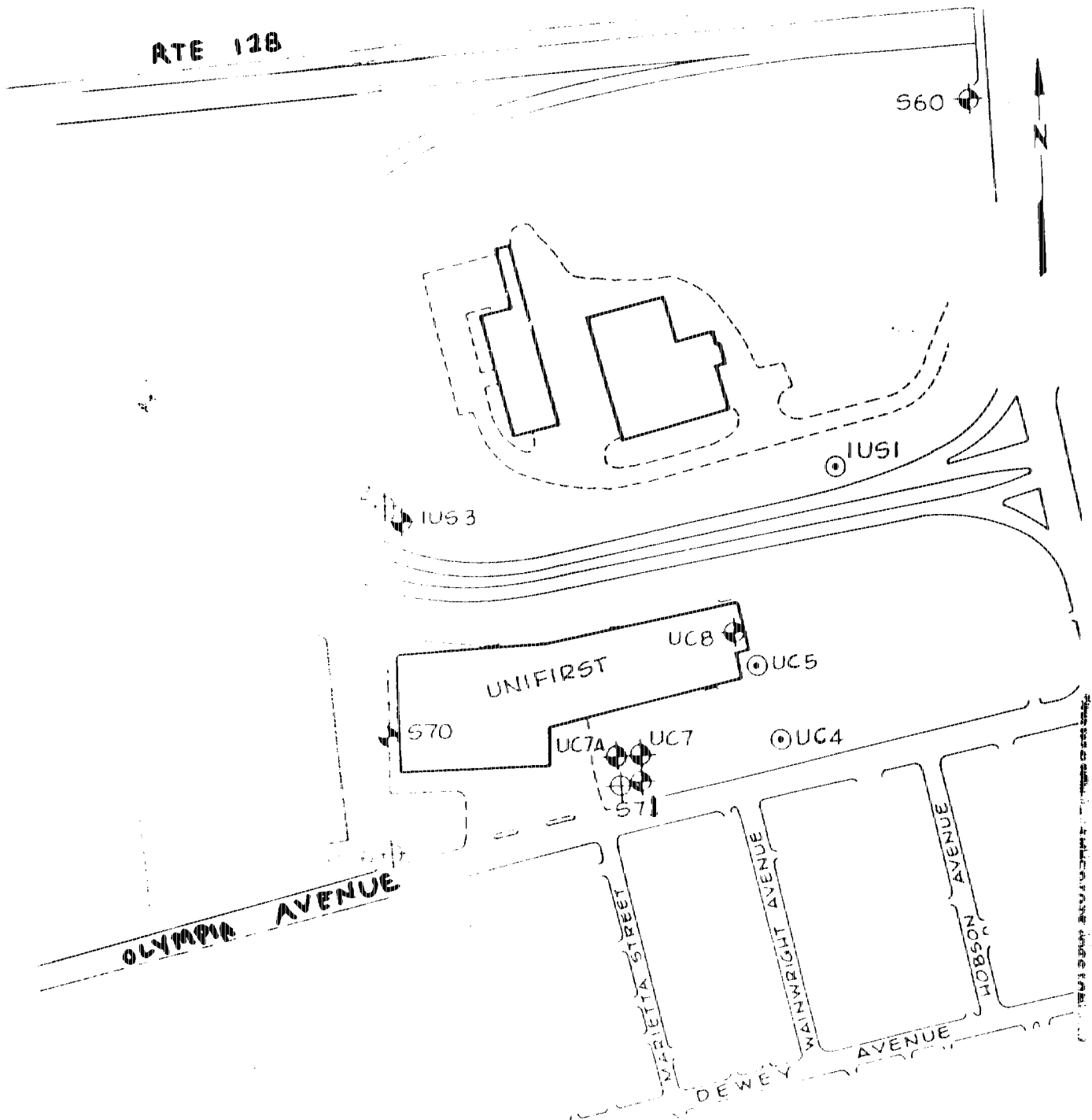
In the course of performing the study, NUS sampled and analyzed ground water and surface water from the Wells G & H study area. One of the report's conclusions is that a plume of volatile organic contamination emanates from the Unifirst property and extends down-gradient toward Wells G & H. The plume is characterized by a predominance of tetrachloroethene. A secondary constituent is 1,1,1-trichloroethane, with minor percentages of trichloroethene and trans-1,2-dichloroethene.

7. During November 1986, Unifirst advised EPA that it was voluntarily commencing an investigation of the contamination reported by NUS to be emanating from Unifirst's property and invited EPA to observe and split samples. At EPA's request, Unifirst provided EPA with a workplan and reported the results of the laboratory analyses to EPA. Unifirst's consultants installed six groundwater monitoring wells, excavated three potential source areas, probed the soil at over one hundred locations, and sampled on the Unifirst property for volatile organic compounds, (see map A).

8. In January 1987, Unifirst's consultants discovered DNAPL in Well UC-8 on the Unifirst property from 16.75 - 20.8 feet below land surface. Unifirst then notified EPA and requested permission to remove the DNAPL. A groundwater sample collected above the DNAPL at UC-8 and analyzed by Unifirst revealed the following contamination:

<u>compound</u>	<u>concentration (ppb)</u>
tetrachloroethene	62,510
trichloroethene	2,250
1,1,1-trichloroethane	580
1,2-dichloroethene	14,300

9. In addition, Unifirst reported concentrations of contaminants in multi-level monitoring well UC-7 which is located downgradient from UC-8 at the south central portion of the Unifirst property. Tetra-



UC- UNIFIRST WELL LOCATIONS AS OF FEBRUARY 1987

MAP A

chloroethylene was also found at highest concentrations at Well UC-7. The following are reported levels of tetrachloroethylene found in groundwater at various depths at well UC-7:

Level	Length of well bore opening below land surface (feet)	Concentrations of tetrachloroethylene (ppb)
5	16 thru 18	180
4	20 thru 62	1300
3	64 thru 89	10,000
2	90 thru 117	22,000
1	130 thru 148	15,000

10. The Unifirst property is situated hydrologically upgradient of an aquifer that previously supplied water to the City of Woburn and that remains an important natural resource in the area. This aquifer has become and will continue to be contaminated by migration of hazardous substances from the Unifirst property in the absence of measures that remove the source of contamination from the aquifer.

IV. ENDANGERMENT

11. The volatile organic compounds found in the aquifer underlying the Unifirst property have the following hazardous properties:

- a. Trichloroethene and tetrachloroethene have both been demonstrated to cause cancer in laboratory

animals when administered at high doses over the lifetime of the animal. Chronic exposure to either chemical at high doses can damage the central nervous system, liver and kidneys. Both chemicals readily penetrate the skin and lungs.

- b. At high doses, both 1,2-dichloroethene and 1,1,1-trichloroethane can cause irritation of the eye and mucous membrane and act as a narcotic. At high doses, 1,2-dichloroethane may cause liver and kidney damage. At high doses, 1,1,1-trichloroethane can cause depression of the central nervous system and acute pulmonary congestion when inhaled.

12. Human contact with the DNAPL may result in adverse health effects.

V. DETERMINATIONS

13. On the basis of the Findings of Fact, EPA makes the following Determinations:

- a. In order to protect public health and welfare and the environment and reduce further release of DNAPL into the bedrock aquifer beneath the Unifirst property, it is necessary and appropriate that a removal action be taken to abate the threat that may be posed by the release of hazardous substances. EPA has determined that such actions include, but are not limited to, investigation of the nature and extent

of DNAPL occurrence at the Unifirst property, and the design and implementation of a system to remove, treat, recycle or dispose of the DNAPL in the bedrock aquifer underlying the Unifirst property as described below.

- b. The Unifirst property is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
- c. Respondent is a "person" as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).
- d. The volatile organic compounds found in groundwater at Wells UC-8 and UC-7 as set forth above in paragraph 10 and 11, are "hazardous substances" as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).
- e. Respondent is the owner and operator of the facility and therefore is a potentially responsible party pursuant to Section 107(a) of CERCLA, 42, U.S.C. § 9607(a).
- f. The past, present or future migration of hazardous substances from the Unifirst property constitutes an actual and threatened "release" as defined in Section 101(22) of CERCLA, 42 U.S.C § 9601(22).
- g. The actions called for in this Consent Order will be consistent with the National Contingency Plan ("NCP"), 40 C.F.R. Part 300, provided that the Respondent conducts such actions properly and promptly and pursuant to this Order.

h. The actual release or threatened release of hazardous substances from the site may be an imminent and substantial endangerment to the public health or welfare or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

VI. ORDER

14. To protect public health and welfare and the environment, Respondent agrees and is hereby ordered to undertake the following activities within the specified time periods as set forth below. All activities conducted pursuant to this Order shall be conducted consistent with the National Contingency Plan (NCP), 40 CFR Part 300, 50 Fed. Reg. 47950 (November 20, 1985) and any amendments thereto, and shall be conducted by or under the direction of Unifirst's consultants, John Cherry and ERT, in accordance with the Project Operation and Implementation Plan ("POIP") attached hereto.

15. Within forty-five (45) days of the completion of the on-site work specified in the approved POIP, Respondent shall submit a Summary to EPA that includes the results of this work. At a minimum this Summary shall include:

- a. Copies of all analytical results and field notes generated during the removal and sampling actions;
- b. QA/QC control documentation supporting analytical results;

- c. A description, with appropriate maps, of any areas of contamination or suspected contamination encountered on-site;
- d. A proposal for additional investigatory work, if necessary, and a schedule;
- e. A proposal for the removal of any additional contamination encountered as a result of the investigations performed in accordance with paragraph 15(d) above, and a schedule.

16. EPA will review the aforementioned Summary as submitted by the Respondent and require modifications or changes as necessary. EPA will then approve the Summary and so notify the Respondent in writing.

17. Within ten (10) days of notification of EPA approval of the Summary, Respondent shall begin to implement the additional investigative or removal actions set forth in the approved Summary in accordance with the schedule contained therein.

18. The Respondent shall submit a Final Report to the EPA within forty-five (45) days of the completion of all investigatory, removal or abatement actions set forth in the Summary and approved by EPA. This Final Report shall summarize all work performed at Unifirst pursuant to this Consent Order and shall include all analyses, interpretations and conclusions by Unifirst as to the

status of DNAPL in the aquifer underneath the Unifirst property. EPA will then review this Final Report and require modifications as necessary. EPA will then approve the report and so notify the Respondent in writing.

VII. DESIGNATION OF COORDINATORS

19. The Respondent designates Jeffrey T. Lawson of ERT as coordinator for administration of all actions called for by this Consent Order. His address and telephone number have been submitted to EPA. EPA designates Barbara Newman as Remedial Project Manager (RPM) for administration of EPA's responsibilities and for receipt of all written matter required by this Consent Order. In addition, EPA will designate an on-scene coordinator ("OSC") to oversee all investigatory work and removal operations pursuant to this Consent Order.

20. EPA's RPM shall have the authority vested in the On-Scene Coordinator by 50 Fed. Reg. 47948 (November 20, 1985) including, but not limited to, the authority to stop work being performed pursuant to this Consent Order.

21. Respondent shall allow EPA's designated RPM, OSC, and other EPA employees, agents, consultants, contractors, and authorized representatives to enter and freely move about all areas where work is being carried out

pursuant to this Consent Order at all reasonable times, including, but not limited to, any time that work is being carried out pursuant to this Consent Order for the purpose of inspecting and observing progress in implementing the activities undertaken pursuant to this Consent Order, for the purpose of verifying the data submitted to EPA, and for the purpose of taking samples or split samples. Respondent shall notify EPA not less than seven (7) days in advance of any sample collection activity unless such notice is not possible given the requirements imposed by the Work Plan or unforeseen conditions. In such cases as much advance notice as possible shall be given. Unifirst shall permit such persons to inspect and copy all records, documents, and other writings which do not constitute attorney-client communications or mental impressions, conclusions and legal theories of Unifirst's specially retained experts and counsel. Unifirst further agrees to make available an index of communications which contain attorney-client communications or the mental impressions of its experts and to provide the EPA with any underlying factual data contained in those communications, including any sampling and monitoring data, which pertains to work undertaken pursuant to this order.

VIII. DISPUTE RESOLUTION

22. If the Respondent objects to any EPA notice of disapproval or decision made pursuant to this Consent

Order, Respondent shall notify EPA in writing of its objections within ten (10) days of receipt of the decision. EPA and Respondent will then have an additional ten (10) days from the receipt by EPA of the notification of objection to reach agreement. The dispute resolution efforts shall involve consultation sessions, communications and meetings as may be effective to accomplish satisfactory resolution of the dispute. EPA and Respondent agree that implementation of those terms of the Consent Order not subject to the dispute shall continue to the maximum extent possible while the dispute resolution efforts are being carried out. If agreement cannot be reached on any issue within this ten (10) day period, EPA shall provide a written statement of its desired resolution to Respondent, including such implementation schedules as are appropriate. Within seven (7) days after receipt of such notice from EPA, Respondent shall inform EPA in writing whether it will implement the EPA resolution. If it agrees to implement the EPA resolution, Respondent shall thereafter diligently pursue such completion. In the event that the dispute resolution procedure fails to resolve the dispute because Respondent does not implement the EPA resolution, EPA may exercise its enforcement rights under paragraph 23, below.

23. In the event that Respondent does not implement the EPA resolution, as provided in paragraph 22, the EPA Regional Administrator may take such civil enforcement actions against Respondent as may be provided by statutory or equitable authorities, including, but not limited to, the assessment of such civil penalties or damages as are authorized by law against Respondent, as provided in paragraph 42, below.

IX. RESERVATION OF RIGHTS BY EPA

24. EPA expressly reserves all the rights and defenses that it may have, including EPA's right both to disapprove of work performed by Respondent and to request that Respondent perform tasks in addition to those detailed in the Consent Order. In addition, EPA reserves the right to undertake removal actions and/or remedial actions at any time and, in the event that EPA invokes its rights under paragraph 23, to perform any and all portions of the work activities which Respondent has failed to perform. EPA reserves any and all rights to take any enforcement action pursuant to CERCLA and/or any available legal authority, including the right to seek injunctive relief, monetary penalties, and punitive damages for any violation of law or of this Consent Order.

X. OTHER APPLICABLE LAWS

25. All actions required to be taken pursuant to this Consent Order shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations, including laws relating to occupational health and safety.

XI. OTHER CLAIMS

26. Nothing in this Consent Order shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, partnership, or corporation, including, in particular, any other potentially responsible party not a signatory to this Consent Order, for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous substances, pollutants, or contaminants found at or migrating from the Unifirst property.

XII. CREATION OF DANGER

27. Upon the occurrence of any event during the activities conducted pursuant to this Consent Order that causes or threatens a release of hazardous substances from the Unifirst property, or threatens public health, welfare or the environment, Respondent shall notify within twenty-four (24) hours the Remedial Project Manager (RPM)

or, in the event of his or her unavailability, shall notify within the same twenty-four hour period the Emergency Response Unit, Region I, EPA, telephone number (617)861-6700, setting forth the events that occurred and the measures to be taken to mitigate any harm caused or threatened by the event and to prevent the reoccurrence of such an event.

28. Whether or not a report is made to EPA pursuant to paragraph 27 above, if EPA determines that activities in compliance or noncompliance with this Consent Order have caused or may cause a release of hazardous substances or a threat to public health or welfare or the environment, then EPA may:

- a. Order the Respondent to stop further implementation of this Consent Order for as long as may be needed to abate any such release or threat; and/or
- b. Undertake any actions that EPA determines are necessary to abate such release or threat.

XIII. DISCLAIMER

29. The United States government, including EPA, shall not be liable for injuries or damages to persons or property resulting from acts or omissions by the Respondent, its employees, agents or contractors in carrying out activities pursuant to this Consent Order, nor shall the United States government be held as a party to any contract entered into by Respondent or

its agents in carrying out activities pursuant to this Consent Order.

XIV. PREAUTHORIZED FUNDING

30. This Consent Order does not constitute any decision on preauthorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2).

XV. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

31. In consideration of the communications between the Respondent and EPA prior to the issuance of this Consent Order concerning its terms, the Respondent agrees that there is no need for a settlement conference prior to the effective date of this Consent Order. Therefore, the effective date of this Consent Order shall be the date of receipt by Respondent of the Order signed by EPA.

32. This Consent Order may only be amended by mutual agreement of EPA and the Respondent. Such amendments shall have as the effective date that date on which such amendments are signed by EPA.

33. Any contracts, reports, plans, specifications, schedules, and attachments required by this Consent Order are, upon approval by EPA, incorporated into this Consent Order.

34. No informal advice, guidance, suggestion, or comments by EPA regarding reports, plans, specifications, schedules, and any other writing submitted by the Respondent will be construed as relieving the Respondent of their obligations to obtain such formal approval as may be required by this Consent Order.

XVI. PARTIES BOUND

35. This Consent Order shall apply to and be binding upon the Respondent, its successors and assigns.

The Respondent shall remain responsible for carrying out all activities required under this Consent Order.

The Respondent shall provide a copy of this Consent Order to all contractors, sub-contractors, laboratories, and consultants retained to conduct any portion of the work performed pursuant to this Consent Order within seven (7) calendar days of the effective date of such retention. Such contractors, subcontractors, laboratories and consultants shall perform all work in conformance with the terms and conditions of this Consent Order.

No change in ownership or corporate status shall in any way alter the Respondents' responsibilities under this Consent Order. The Respondents shall provide a copy of the Consent Order to any subsequent owners or successors.

XVII. TERMINATION AND SATISFACTION

36. The provisions of this Consent Order shall be deemed satisfied upon the Respondent's receipt of

written notice from EPA that the Respondent has demonstrated to the satisfaction of EPA that all of the terms of this Consent Order, including any additional tasks which EPA has determined to be necessary, have been completed.

XVIII. RESERVATION OF RIGHTS BY THE
RESPONDENT TO THE CONSENT ORDER

37. The actions of Respondent undertaken in accordance with this Consent Order do not constitute a finding or admission of any liability or fault by Respondent or its officers, directors, employees, agents, successors, or assigns. Furthermore, these actions do not constitute a commitment or agreement by any or all of the aforementioned parties to undertake any further activities, investigations, or studies at the Unifirst property, other than those necessary to perform the activities required by this Consent Order, or to undertake any other response actions at or for the Unifirst property. The Respondent does not admit and retains the right to controvert in any subsequent proceedings, other than proceedings for the purpose of implementing or enforcing the Consent Order, the validity of the facts or determination contained in the Consent Order. Except as agreed in paragraph 1 concerning the jurisdiction asserted in this Order, Respondent further retains all rights to judicial review.

XIX. CONFIDENTIALITY CLAIMS

38. Respondent may assert a confidentiality claim, if appropriate, covering part or all of the information requested by this Consent Order pursuant to 40 CFR 2.203(b). Such an assertion shall be adequately substantiated when the assertion is made. Analytical data shall not be claimed as confidential by Respondent. Information determined to be confidential by EPA will be afforded the protection specified in 40 CFR Part 2, Subpart B. If no such claim accompanies the information when it is submitted to EPA, it may be made available to the public by EPA without further notice to Respondent.

XX. REIMBURSEMENT OF COSTS

39. EPA reserves the right to bring an action against Respondent pursuant to Section 107 of CERCLA, as amended, 42 U.S.C. § 9607(a), for recovery of costs incurred in oversight, administration, and enforcement of this Consent Order, and any other past and future costs incurred by the U.S. Government in connection with response activities conducted pursuant to CERCLA at this Site.

XXI. INDEMNIFICATION

40. Respondents agree to indemnify and save and hold harmless the United States Government, its agencies, departments, agents, officers, employees, and representatives

from any and all claims or causes of action arising from or on account of acts or omissions of Respondents, their officers, employees, agents, receivers, trustees, assigns or contractors in carrying out the activities pursuant to this Consent Order.

XXII. RECORD PRESERVATION

41. Until six (6) years after completion of all response actions at the Site, whether or not undertaken pursuant to this Order, Respondent, and its successors and assigns, shall preserve and retain all records, documents and information of any kind in its possession or in the possession of its officers, divisions, employees and attorneys and shall preserve and retain all records, documents and information sent to and received from its agents, accountants and contractors that discusses in any way to the performance of the required work or releases or threatened releases of hazardous substances from the site. Preliminary drafts need not be retained if superceded by subsequent drafts or final documents.

XXIII. PENALTIES FOR NON-COMPLIANCE

42. Pursuant to Section 106(b) of CERCLA, 42 U.S.C. § 9606(b), the Respondent is advised that if, without sufficient cause, Respondent willfully violates or fails or refuses to comply with this Order, Respondent

may be fined in a civil action brought in federal district court for up to twenty-five thousand dollars (\$25,000) for each day in which such violation occurs or such failure to comply continues. In addition, pursuant to Section 107(c) of CERCLA, 42 U.S.C. § 9607(c), failure to comply with this Order, without sufficient cause, may also subject the Respondent to liability for punitive damages in the amount of three (3) times the amount of any costs incurred by the United States government as result of the Respondent's failure to take proper action.

IT IS SO AGREED AND ORDERED BY:

Michael R. Deland
Michael R. Deland
Regional Administrator

9/28/87
Date

IT IS SO AGREED:

Paul R. Smith *via electronic*
Respondent(s)

9/25/87
Date

J. J. J.
Attorney for Respondent

9/28/87
Date